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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,839	02/11/2002	Anthony N. Specia	98B045/5	7973

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EXAMINER

HARLAN, ROBERT D

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 02/13/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,839

Applicant(s)

SPECA, ANTHONY N.

Examiner

Robert D. Harlan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 23-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 23-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 and 2 recites the limitation "the degree of fluoridation" and "the activity of the composition," respectfully. There is insufficient antecedent basis for this limitation in the claim.

4. Throughout the dependent claims the Applicants use the terms, "composition" and "support" rather indiscriminately. In the independent claim 1, the Applicants recite, "supported catalyst composition" "fluorided support composition" "the support" and "fluorided support." Hence, when the Applicants

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recited in the dependent claims "the composition" or "the support," it begs the question, which composition or support? For instance, claims 24-26 suffer from the lack of a more specific description of "the composition" or "the support." Whereas, claims 32-35 are specific and acceptable.

5. Throughout the claims, the Applicants fail to use a proper Markush format. For example, in claims 27 and 28, the Applicants should insert --the group consisting of--.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an

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international application filed under the treaty defined in section 351(a).

7. Claims 23-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Inatomi et al., EP 0 628 574 A1 (hereinafter "Inatomi"). Inatomi discloses process for polymerizing olefins using a polymerization catalyst and a method for preparing a polymerization catalyst by contacting a metallocene compound, an ionizing compound, an organometallic compound and an inorganic oxide having surface hydroxyl substituted partly or entirely by halogen. See Inatomi, Abstract; page 1, lines 5-11. Inatomi further discloses heat treatment of the inorganic oxide with a halogen-containing compound. See Inatomi, col. 6, line 55 through col. 7, line 51. In Example 1, Inatomi further discloses the preparation of solid catalyst by contacting alumina with NH_4F calcined at 900°C for 6 hrs followed by contacting the fluoride treated alumina with ethylene-bis(indenyl) zirconium dichloride and a co-catalyst. See Inatomi, page 6, col. 9, lines 5-25. Therefore, Inatomi anticipates claims 23-52.

8. Claims 23-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Fritze, U.S. Patent No. 6,177,526 (hereinafter "Fritze"). Fritze discloses a polymerization process using a

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supported catalyst system comprising: (1) a metallocene [e.g., dimethylsilanediylbis(2-methyl-4-penyindenyl) zirconium dichloride, dimethylsilanediylbis(2-methylindenyl) zirconium dichloride, dimethylsilanediylbis(2-methyl-4(1-naphthyl)indenyl) zirconium dichloride]; (2) organoboron compound [e.g., tris(pentafluorophenyl)borane]; (3) modified support obtained from the reaction of an inorganic oxide with an organosilicon compound containing fluorine [e.g., trifluoropropyl trichlorosilane], which reacts with the -OH groups of the inorganic oxide. See Fritze, col. 5, line 49 through col. 9, line 10; col. 10, lines 48-60; col. 12, lines 25-34; col. 13, lines 27-31. Fritze further discloses that the modified support is prepared at a temperature of 40 to 150°C. See Fritze, col. 13, lines 55-65. Therefore, Fritze anticipates claims 23-52.

9. Please be aware that U.S. Patent No. 09/885,809 will be issued as U.S. Patent No. 6,524,988 on 02/25/2003. If there are any commonly claimed subject matter in U.S. Patent No. 6,524,988 and the present application, the Applicants is advised to file a Terminal Disclaimer.

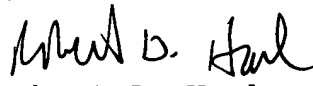
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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (703) 306-5926. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9559 for regular communications and (703) 872-9559 for After Final communications.

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1495.


Robert D. Harlan
Primary Examiner
Art Unit 1713

rdh
February 9, 2003